

# HOUSE . . . . . No. 1442

By Mr. Toomey of Cambridge, petition of Timothy J. Toomey, Jr., and others relative to the protection of consumers from identity theft. Consumer Protection and Professional Licensure.

## The Commonwealth of Massachusetts

### PETITION OF:

Timothy J. Toomey, Jr.	James B. Leary
J. James Marzilli, Jr.	John W. Scibak
Alice K. Wolf	Joyce A. Spiliotis
Steven C. Panagiotakos	Elizabeth A. Malia
Michael E. Festa	Thomas J. O'Brien

In the Year Two Thousand and Five.

### AN ACT RELATIVE TO IDENTITY THEFT IN THE COMMONWEALTH.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1 SECTION 1. Chapter 266 of the General Laws is hereby  
2 amended by adding the following section:—  
3 Section 37F. Identity Theft Investigation  
4 a) A person who has learned or reasonably suspects that his or  
5 hers personal identifying information has been unlawfully used by  
6 another, as described in section 37E of Chapter 266, may initiate a  
7 law enforcement investigation by contacting the local law  
8 enforcement that has jurisdiction over his or her actual residence,  
9 which shall take an identity theft police report of the matter, pro-  
10 vide the complainant with a copy of that report, and begin an  
11 investigation of the facts. If the suspected crime was committed in  
12 a different jurisdiction, the local law enforcement agency must  
13 refer the matter to the jurisdiction's local law enforcement agency  
14 where the suspected crime was committed for further investiga-  
15 tion of the facts.

16 b) Any city, town, or district police department which requires  
17 an investigating police officer to make a report concerning an  
18 incident, offense or alleged offense investigated, or any arrest  
19 made, on a form provided by the department shall include on said  
20 form a space to indicate whether said incident, offense, alleged  
21 offense or arrest involved identity fraud as defined in section 37E  
22 of chapter 266. Said officer shall also provide any victim, as  
23 defined in section 37E of chapter 266, a copy of said report and  
24 may be redacted by the investigating police officer.

1 SECTION 2. Chapter 24A of the General Laws is hereby  
2 amended by inserting the following new section:- Section 6. (a)  
3 There shall be in the office a division of Privacy Protection whose  
4 primary purpose shall be protecting the privacy of individuals'  
5 personal information by identifying consumer problems in the pri-  
6 vacy area and facilitating development of fair information prac-  
7 tices. (b) The office shall inform the public of potential options  
8 for protecting the privacy of, and avoiding the misuse of, personal  
9 information. (c) The office shall make recommendations to orga-  
10 nizations for privacy policies and practices that promote and pro-  
11 tect the interests of consumers. (d) The office may promote  
12 voluntary and mutually agreed upon non-binding arbitration and  
13 mediation of privacy related disputes where appropriate. (e) The  
14 Director of the Consumer Affairs and Business Regulation shall  
15 do all of the following: (1) Receive complaints from individuals  
16 concerning any persons obtaining, compiling, maintaining, using,  
17 disclosing or disposing of personal information in a manner that  
18 may be potentially unlawful or violate a stated privacy policy  
19 relating to that individual, and provide advice, information, and  
20 referral where available. (2) Provide information to consumers on  
21 effective ways of handling complaints that involve violations of  
22 privacy related laws, including identity theft and identity fraud.  
23 Where appropriate local, state, or federal agencies are available to  
24 assist consumers with those complaints, the director shall refer  
25 those complaints to those agencies. (3) Develop information and  
26 educational programs and materials to foster public understanding  
27 and recognition of the purposes of this article. (4) Investigate and  
28 assist in the prosecution of identity theft and other privacy related  
29 crimes, and, as necessary, coordinate with local, state, and federal

30 law enforcement agencies in the investigation of similar crimes.  
31 (5) Assist and coordinate in the training of local, state, and federal  
32 law enforcement agencies regarding identity theft and other pri-  
33 vacy related crimes, as appropriate. (6) The authority of the office  
34 or the director, to adopt regulations under this article shall be lim-  
35 ited exclusively to those regulations necessary and appropriate to  
36 implement paragraphs (b), (c), (d), and (e). (f) Commencing in  
37 2004, the director shall report to the Legislature on an annual  
38 basis, on or before January 31, detailing the activities engaged in  
39 by the department under this article.

1 SECTION 3. Chapter 93 of The Massachusetts General Laws,  
2 as appearing in the 2002 Official Edition, is hereby amended by  
3 inserting after section 55 the following section:—

4 Section 55A. (a) No person or entity, including a state or local  
5 agency may not do any of the following:

6 (1) intentionally communicate or otherwise make available to  
7 the general public an individual's Social Security number;

8 (2) print an individual's Social Security number on any card  
9 required for the individual to access products or services provided  
10 by the person or data collector;

11 (3) require an individual to transmit his or her Social Security  
12 number over the Internet, unless the connection is secure or the  
13 Social Security number is encrypted;

14 (4) require an individual to use his or her Social Security  
15 number to access an Internet Web site, unless a password or  
16 unique personal identification number or other authentication  
17 device is also required to access the Internet Web site;

18 (5) print an individual's Social Security number on any mate-  
19 rials that are mailed to the individual, unless required by law;

20 (6) sell, lease, loan, trade, rent, or otherwise disclose an indi-  
21 vidual's Social Security number to a third party for any purpose  
22 without written consent to the disclosure from the individual.

23 Nothing in this section shall apply to medical information or  
24 documents that are recorded or required to be open to the public  
25 pursuant to section 7 of chapter 4.

26 (b) Violations of any provision of this section shall constitute  
27 and unfair and deceptive trade practice pursuant to the provisions  
28 of chapter ninety-three A.

1     SECTION 4. Each state department and state agency shall enact  
2 and maintain a permanent privacy policy that includes, but is not  
3 limited to, the following principles: (a) Personally identifiable  
4 information is only obtained through lawful means. (b) The pur-  
5 poses for which personally identifiable data are collected are spec-  
6 ified at or prior to the time of collection, and any subsequent use  
7 is limited to the fulfillment of purposes not inconsistent with those  
8 purposes previously specified. (c) Personal data shall not be dis-  
9 closed, made available, or otherwise used for purposes other than  
10 those specified, except with the consent of the subject of the data,  
11 or as authorized by law or regulation. (d) Personal data collected  
12 must be relevant to the purpose for which it is collected. (e) The  
13 general means by which personal data is protected against loss,  
14 unauthorized access, use modification or disclosure shall be  
15 posted, unless such disclosure of general means would compro-  
16 mise legitimate state department or state agency objectives or law  
17 enforcement purposes. (f) Each state department or state agency  
18 shall designate a position within the department or agency, the  
19 duties of which shall include, but not be limited to, responsibility  
20 for the privacy policy within that department or agency.